

**MURRAY BOARD OF ZONING ADJUSTMENTS MINUTES  
MARCH 16, 2005**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, March 16, 2005 at 4:30 p.m. in the council chambers of City Hall located at 104 N. 5<sup>th</sup> Street.

**Board Members Present:** Ed Davis, Andy Dunn, Scott Seiber, George Stockton, Helen Spann and Bill Whitaker

**Board Members Absent:** Red Howe

**Also Present:** Candace Dowdy, David Roberts, Sam Perry, Don Elias, Mike Pitman and public audience

Chairman Whitaker called the meeting to order and welcomed the guests. Chairman Whitaker asked if there were any corrections to the February 16, 2005 minutes. **Scott Seiber made a motion to approve the minutes as presented. Ed Davis seconded the motion and it carried by a 4-0 voice vote.**

Helen Spann entered the meeting at 4:31 P.M.

**Dimensional Variance Request for Height and Size of Freestanding Sign and Height Variance on Flag Pole at 100 Max Hurt Drive—Tri-State International Trucks—**

**Bob Cartwright:** Candace Dowdy stated that Tri-State International Trucks was constructing a new building in the industrial park off of U.S. 641 North. Ms. Dowdy stated that the BZA granted Tri-State a conditional use permit to operate a retail establishment in an Industrial zone on July 21, 2004. Ms. Dowdy stated that the proposed sign was 35 feet from ground level to the top of the sign. Ms. Dowdy stated that the overall size of the proposed sign was 169 ½ square feet. Ms. Dowdy showed the board a picture of the proposed sign. Ms. Dowdy stated that the site was about 3000 feet from U.S. 641, and was the last lot on the left in the industrial park. Ms. Dowdy stated that Mr. Cartwright would like to put up a 70 foot flag pole, with just the American flag on it, and that the height limitation of a structure is 35 feet. Ms. Dowdy showed the BZA an aerial image of the Tri-State location. Ms. Dowdy also showed the BZA the proposed location of the sign and flag pole on the Tri-State site plan. Helen Spann asked where the property line was. Ms. Dowdy pointed to the silt fencing in the photograph, and stated that it was very close to the property line. Ms. Dowdy stated that Pulmo Dose has wall signage, Sportable Scoreboards has a 92 square foot freestanding sign and Paschall Truck Lines has a 60 square foot freestanding sign. Chairman Whitaker swore in Bob Cartwright. Scott Seiber asked Mr. Cartwright what his customer base would be. Mr. Cartwright stated that they were a franchise dealer for International Trucks and that a typical customer would be Paschall Truck Lines. Mr. Cartwright stated that they sold and serviced medium and heavy duty trucks to companies like Paschall as well as lumber and concrete companies, for example. Scott Seiber asked Mr. Cartwright how much drive-in traffic he would get from U.S. 641.

Andy Dunn entered the meeting.

Mr. Cartwright stated that his intention was not to draw people from the road with the sign, but to meet the requirements of his franchise agreement with International, for identification purposes. Mr. Cartwright stated that a truck driver driving down U.S. 641 could see this sign and know where he was located. Mr. Cartwright stated that International offers various sizes of signs. Scott Seiber asked if there were any smaller signs. Mr. Cartwright stated that there was, but it would be almost impossible to see the smaller one from U.S. 641. Scott Seiber asked if the proposed sign could be seen from U.S. 641. Mr. Cartwright stated that he felt it could be seen. George Stockton asked what size flag was proposed for the flag pole. Mr. Cartwright stated that he believed it was a 25' x 36' and that it would have a light shining on it. Mr. Cartwright stated that the building was about 90% complete, despite poor weather conditions. George Stockton asked if a sign or flag pole was discussed in the conditional use permit process or previously with anyone from the city. Mr. Cartwright stated that it was not discussed, other than the location on the site plan. George Stockton asked if anyone else on Max Hurt Drive had a flag pole. Mr. Cartwright stated that Paschall Truck Lines did have one. Scott Seiber stated that it was not as tall. Chairman Whitaker asked if the board had any further questions. **Scott Seiber made a motion to approve an 11' height variance on the freestanding sign, with an 89 ½ square foot variance on the size and a 35' variance on the height of the flag pole based on the fact that it will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. Ed Davis seconded the motion.** Chairman Whitaker stated that he would be voting against it, but wanted to state his position. Chairman Whitaker stated that this size variance is a precedent-setting variance, and that the primary growth direction of the city is to the north, therefore he is voting against it. Scott Seiber stated that if the sign were on U.S. 641, he would not be for it. Andy Dunn abstained from this item due to not hearing the entire discussion. **The motion carried with a 4-2 vote.**

**Presentation of a Possible Mural/Artistic Rendering in the Downtown Area-Murray Main Street-Deana Wright:** Candace Dowdy stated that Murray Main Street program would like to use murals in the downtown area, and has selected the Roosevelt-Drake building on Main Street as their possible first location. Ms. Dowdy stated that if the project goes well, there could be other locations selected. Ms. Dowdy also stated that artistic renderings are allowed in all zones, except residential, but only with approval by the BZA.

Deana Wright, manager for Murray Main Street, stated that they had originally applied for a dimensional variance, but due to not having a rough sketch available tonight, are simply here to provide information to the BZA regarding the mural project. Ms. Wright stated that the artist for the project is Steve Estes, and is known nationally for his work. Ms. Wright stated that the Kentucky Department for Tourism is planning to use this project in Murray as part of a historical tour of Western Kentucky cities, using murals. Ms. Wright stated that the murals would be painted on a durable material such as lucabond, and then covered with a protective layer, instead of being painted directly on the building. Ms. Wright stated that the life expectancy of the mural is 100 years. Ms. Wright stated that the content for this mural would be connected with freedom, and possibly veterans, with a planned unveiling during Freedom Fest. Scott Seiber asked how much of the building wall the mural would take up. Ms. Wright stated that it would

occupy the west side of the building and that it does not include the window areas. Ms. Wright also explained that the design would first have to be approved by the design committee, Murray Main Street board and Dr. Drake before it was brought to the BZA for their approval. Andy Dunn asked if a mural had recently been painted on a building in Benton. Ms. Wright stated that it had, but it was painted directly on the building and was much brighter colors than what they had envisioned using on the Murray project. Scott Seiber asked how the mural would respond to graffiti. Ms. Wright stated that the coating allowed them to be cleaned. Scott Seiber stated that this project was a great idea, emphasizing the benefits of the approval process. Andy Dunn asked how high the mural would be, regarding the possibility of vandalism. Scott Seiber asked where the funding would come from. Ms. Wright stated that they were applying for a grant from the Kentucky Arts Council, and that possible funds would come from the sale of prints of the mural.

### **Request To Amend Recorded Final Plat For Bailey Road Apartments—Sam**

**Underwood:** Candace Dowdy stated that this project was located on Bailey Road and that the final plat was approved in June 2002, and that the final plat was recorded in July 2002. Ms. Dowdy stated that the recorded plat showed 57 units. Ms. Dowdy also noted that the BZA granted a 28 parking space variance during the conditional use process. Ms. Dowdy stated that Mr. Underwood brought in a revised plat two weeks ago adding two additional units. Ms. Dowdy stated that the area Mr. Underwood would like to use for additional units was originally planned for a stormwater detention area, but since that land is not needed for detention, he is requesting to use it for apartments, as drawn on the original plan. Ms. Dowdy stated that with this addition, six (6) more parking spaces would be required. Ms. Dowdy stated that Mr. Underwood was also requesting to make a change to the 911 addresses of two buildings, originally buildings 60 and 64, due to duplicate numbering in the same development. Ed Davis stated that the motion at the Planning Commission included a statement that referred to the fact that the two units were on the original plan, to avoid setting a precedent of amending PDP plats. Mike Pitman stated that the Planning Commission felt this change was not significant, and not a deviation from their intent, therefore approved it. Chairman Whitaker swore in Sam Underwood. Mr. Underwood explained that the land was available for the two (2) additional units and that there were always at least 20 parking spaces available in the development, referring to the excessive parking requirements by the city zoning ordinance. Mr. Underwood stated that they changed the apartment numbers after the recording of the plat because they did not realize there were duplicates. Mr. Underwood explained that they had spoken with the mail carrier about the change, and it was recommended, and that it made building maintenance easier. George Stockton asked if there was two exit points for this development. Mr. Underwood stated that there was just one. Mr. Stockton stated that this would be adding to the traffic load of Bailey Road. Mr. Underwood stated that any new development will bring more traffic. Mr. Underwood explained that a lot of the folks in his one-bedroom apartments were not college students. Scott Seiber stated that there was not a traffic light at Bailey Road. David Roberts stated that there has been some discussion with the county about widening Bailey Road. Don Elias stated that funding was allocated for repaving, but very little widening would occur in this process, because of the high costs. Scott Seiber asked if there was any way to add a right-hand turn lane. Don Elias stated that it had not been discussed but that was something they would take a look at in the future. Chairman Whitaker asked for a motion. **Ed Davis made a motion to grant the request to add**

two additional units with an additional six parking space variance and that the 911 numbering be changed as requested based on the facts this would not change the compatibility of the project to this area and that the addition of these two units were in the original plan but were taken out due to the land needed for stormwater detention, which was presently not needed and that it will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. Scott Seiber seconded the motion and the motion carried with a 6-0 vote.

**Dimensional Variance Request To Allow the Use of a Banner as a Permanent Sign at 1202 S. 12<sup>th</sup> Street—Country Hearth Inn:** Candace Dowdy stated that there was no one present to represent Country Hearth Inn. Ms. Dowdy explained that there was no other signage on the building, and that they had obtained a temporary sign permit back in July 2004. Ms. Dowdy stated that the freestanding sign on the lot was 79 square feet. Andy Dunn asked if the reason for using the banner was to save cost. Ms. Dowdy stated that they had recently changed hands and numerous letters had been sent, with little or no response being returned. Ms. Dowdy stated that the home office was in Central City, and that the new manager was not aware of the sign violation. Ed Davis stated that the only comparable request was the Lowe's banner, but it is changed on a regular basis for specials. Scott Seiber stated that he could not think of a valid argument for using a banner as a permanent sign and did not want to approve it citing the potential for a significant precedent. **Scott Seiber made a motion to deny the use of a banner as a permanent sign. Andy Dunn seconded the motion and the motion carried with a 6-0 vote.**

Candace Dowdy showed the BZA a picture of the proposed electronic reader board sign that the Chamber of Commerce is planning to erect. Candace Dowdy stated that the overall size is 87 ½ square feet, the top and bottom portions of sign area are 42 ½ square feet and the electronic message board is 45 square feet. Ms. Dowdy stated that the electronic message board portion is 51 ½ percent of the sign area. Ms. Dowdy showed pictures of the proposed location and explained that the current sign would be removed.

City Administrator, Don Elias explained that no action was requested to be taken by the BZA. Mr. Elias stated that this was to inform the BZA because the BZA is asked about signage on a regular basis. Mr. Elias stated that this project was started by the "Town and Gown" program, which was formed about one year ago. Mr. Elias stated that the City, County, Murray State, Tourism Commission, Economic Development and numerous businesses in the community comprised the "Town and Gown." Mr. Elias explained that the purpose of this project was to erect a marquee to advertise community events instead of using banners. Mr. Elias stated that the sign was a little over the 80 square feet requirement for monument style signs in shopping centers and that the digital portion did not meet the new sign ordinance changes but that this size was necessary in order to get public service announcements out to the public. Mr. Elias reminded the BZA that it was not for this board to take action, because the property was zoned government and owned by the city. Mr. Elias stated that the "Town and Gown" had over \$100,000 in donations and was ready to move forward with this project and had worked very hard in getting it to this point. Scott Seiber asked if Mr. Elias would be there to answer any questions that businesses ask as to why the Chamber of Commerce was allowed to use

50% of the total sign area for an electronic message board. Ed Davis agreed with Scott Seiber. Mr. Elias stated that was a valid question and he would be glad to take all of those calls. Mr. Elias stated this was not a business sign, as the sign regulations address, but a community marquee. Ed Davis stated that the BZA and the staff understood, but would the public? Mr. Elias confirmed that it would be difficult to deal with those situations. Mr. Elias stated that the proposed sign is smaller than the original design, and that four lines of six inch text was a minimum to get the messages out to the public. Mike Pitman asked if the city could approach Wal-Mart about changing their sign to a monument-style sign in light of the other two in the area. Candace Dowdy stated that Wal-Mart was very interested in the possibility of a monument-style sign when they first found out about the new regulations several months ago, and probably would be cooperative. Don Elias commended the community and the board on the job well done in establishing the new sign regulations. Don Elias explained to the BZA that there is a board that will review requests to have announcements on the new sign. The board will closely follow guidelines in the zoning ordinance regarding community festivals, prohibiting business advertisements. George Stockton asked if the messages would change. Don Elias confirmed that they would.

Chairman Whitaker asked for any questions or comments.

Candace Dowdy reminded the BZA of upcoming Continuing Education Units available at workshops and conferences.

Mike Pitman stated that he was still waiting on a ruling from Judge Foust regarding the asphalt plant.

**Being of no further business, Ed Davis made a motion to adjourn. Andy Dunn seconded the motion and the motion carried with a 6-0 voice vote.**

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Chairman, Bill Whitaker

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Recording Secretary, Sam Perry